IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1103 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NARHARSING H GADHAVI
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :
MR YOGESH S LAKHANI for Petitioner.
MS FALGUNI PATEL, AGP for Respondents.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 06/10/2006

ORAL JUDGMENT

By filing this petition, the petitioner has prayed that appropriate direction may be given to the respondents to continue him as full time lecturer. It is also prayed that his services may not be terminated.

The petitioner was appointed as full-time lecturer in respondent No.3-college by appointment order dated 21-10-1993. Services of the petitioner were used to be terminated for some time and, thereafter, he was used to be given appointment as per the averment made in paragraph 3 of the petition.

Grievance of the petitioner is that in order to deprive him from vacation benefit and salary, at the end of every academic year, his services were used to be terminated and, thereafter, fresh order of appointment was used to be passed. As per the appointment order annexed with the petition, it is clear that tenure appointment was given to the petitioner and as per the condition mentioned in said order, such appointment is given to the petitioner till GPSC selected candidate is available.

It is not in dispute that the post in question is required to be filled in through GPSC.

In response to the petition, affidavit-in-reply has been filed by Joint Director Commissioner of Higher Education Office, Gandhinagar. In paragraph 5 of the affidavit-in-reply, it is stated that at present the petitioner has already left his services and he has gone elsewhere. Meaning thereby, he his now not serving as a lecturer in respondent no.3 college.

In view of the aforesaid averment, when the petitioner is not serving as a lecturer, now there is no question of giving any direction to continue the petitioner in service till GPSC selected candidate is available. In that view of the matter, this petition has become infructuous. If the petitioner would have been in service, the Court could

have considered the question of granting any such direction in accordance with law.

In view of what is stated herein above, this petition is disposed of as having become infructuous. Rule is discharged with no order as to costs. Interim relief granted earlier stands vacated.

(P.B.Majmudar, J.)

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